



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2012-0082; FRL-9634-1]

Revisions to the Hawaii State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Hawaii State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC), oxides of nitrogen (NO_x), and particulate matter (PM) emissions from motor vehicles, water separation, pumps, compressors, waste gas, and open burning, as well as several administrative requirements. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on [Insert date 60 days from the date of publication in the Federal Register] without further notice, unless EPA receives adverse comments by [Insert date 30 days from the date of publication in the Federal Register]. If we receive such comments, we will publish a timely withdrawal in the Federal Register to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2012-0082, by one of the following methods:

1. Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions.
2. E-mail: steckel.andrew@epa.gov.
3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail.

www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, (415) 947-4126, law.nicole@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agency and submitted by the Hawaii Department of Health (HDOH).

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Revised	Submitted
HDOH	11-60.1-1	Definitions	11/14/03	12/14/11
HDOH	11-60.1-2	Prohibition of air pollution	11/14/03	12/14/11
HDOH	11-60.1-4	Certification	11/14/03	12/14/11
HDOH	11-60.1-8	Reporting discontinuance	11/14/03	12/14/11
HDOH	11-60.1-11	Sampling, testing, and reporting methods	11/14/03	12/14/11
HDOH	11-60.1-14	Public access to information	11/14/03	12/14/11
HDOH	11-60.1-15	Reporting of equipment shutdown	11/14/03	12/14/11
HDOH	11-60.1-16	Prompt reporting of deviations	11/14/03	12/14/11
HDOH	11-60.1-17	Prevention of air pollution emergency	11/14/03	12/14/11

Local Agency	Rule #	Rule Title	Revised	Submitted
		episodes		
HDOH	11-60.1-20	Severability	11/14/03	12/14/11
HDOH	11-60.1-32	Visible emissions	11/14/03	12/14/11
HDOH	11-60.1-34	Motor vehicles	11/14/03	12/14/11
HDOH	11-60.1-40	Volatile organic compound water separation	11/14/03	12/14/11
HDOH	11-60.1-41	Pump and compressor requirements	11/14/03	12/14/11
HDOH	11-60.1-42	Waste gas disposal	11/14/03	12/14/11
HDOH	11-60.1-51	Definitions	11/14/03	12/14/11
HDOH	11-60.1-53	Agricultural burning: permit requirement	11/14/03	12/14/11
HDOH	11-60.1-54	Agricultural burning: applications	11/14/03	12/14/11
HDOH	11-60.1-56	Agricultural burning: recordkeeping and monitoring	11/14/03	12/14/11

On January 27, 2012, EPA determined that the submittal for Hawaii Department of Health Chapter 60.1 met the completeness

criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

There are no previous versions of Rules 11-60.1-4, 11-60.1-14, 11-60.1-40, 11-60.1-41, 11-60.1-42, and 11-60.1-51 in the SIP. We approved earlier versions of Rules 11-60.1-1 (formerly numbered 11-60-1), 11-60.1-2 (11-60-17), 11-60.1-8 (11-60-10), 11-60.1-11 (11-60-15 and 11-60-6), 11-60.1-15 (11-60-16), 11-60.1-16 (11-60-16), 11-60.1-17 (11-60-35), 11-60.1-20 (11-60-38), 11-60.1-32 (11-60-24), 11-60.1-34 (11-60-25), 11-60.1-53 (11-60-19), 11-60.1-54 (11-60-20), and 11-60.1-56 (11-60-22) into the SIP on August 18, 1983 (48 FR 37402). The HDOH adopted revisions to the SIP-approved versions on November 14, 2003 and submitted them to us on December 14, 2011.

C. What is the purpose of the submitted rule revisions?

VOCs and NO_x help produce ground-level ozone and smog, which harm human health and the environment. PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control VOC, NO_x, and PM emissions. New rules requiring controls

on water separation units, pumps, compressors, and waste gas disposal have been adopted. Several rule revisions have been made to update and clarify administrative rules. EPA's technical support document (TSD) has more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), and must not relax existing requirements (see sections 110(l)). Section 193 of the CAA does not apply to this action because the entire State of Hawaii is designated unclassifiable/attainment for all of the current NAAQS.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSD has more information on our evaluation.

C. Public comment and final action.

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this Federal Register, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by [Insert date

30 days from date of publication in the Federal Register], we will publish a timely withdrawal in the Federal Register to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on [Insert date 60 days from date of publication in the Federal Register]. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose

additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15

U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take

effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations, Nitrogen
dioxide, Ozone, Particulate matter, Reporting and recordkeeping
requirements, Volatile organic compounds.

Dated: February 1, 2012 //signed//
Jared Blumenfeld,
Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 [AMENDED]

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 et seq.

Subpart M - Hawaii

2. In §52.620, the table in paragraph (c) is amended by:

- a. Removing the following thirteen entries under the category for Title 11, Chapter 60: 11-60-1, 11-60-6, 11-60-10, 11-60-15, 11-60-16, 11-60-17, 11-60-19, 11-60-20, 11-60-22, 11-60-24, 11-60-25, 11-60-35, and 11-60-38.
- b. Following all entries in the category for Chapter 60, adding a new category for Chapter 60.1.
- c. Adding the following nineteen new entries under the category for Chapter 60.1: sections 11-60.1-1, 11-60.1-2, 11-60.1-4, 11-60.1-8, 11-60.1-11, 11-60.1-14, 11-60.1-15, 11-60.1-16, 11-60.1-17, 11-60.1-20, 11-60.1-32, 11-60.1-34, 11-60.1-40, 11-60.1-41, 11-60.1-42, 11-60.1-51, 11-60.1-53, 11-60.1-54, and 11-60.1-56.

The amendments to paragraph(c) read as follows:

§52.620 Identification of plan.

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(c) * * *

EPA-Approved State of Hawaii Regulations

State Citation	Title/Subject	Effective Date	EPA Approval Date	Explanation
* * * * *				
Department of Health, Title 11, Chapter 60.1, Air Pollution Control	Hawaii Administrative Rules			
11-60.1-1	Definitions	11/14/2003	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	Supersedes 11-60-1
11-60.1-2	Prohibition of air pollution	11/14/2003	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	Supersedes 11-60-17
11-60.1-4	Certification	11/14/2003	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	New regulation
11-60.1-8	Reporting discontinuance	11/14/2003	[<u>Insert Federal Register publication</u>	Supersedes 11-60-10

			date] [<u>Insert page number where the document begins</u>]	
11-60.1-11	Sampling, testing, and reporting methods	11/14/2003	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	Supersedes 11-60-15 and 11-60-6
11-60.1-14	Public access to information	11/14/2003	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	New regulation
11-60.1-15	Reporting of equipment shutdown	11/14/2003	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	Supersedes 11-60-16
11-60.1-16	Prompt reporting of deviations	11/14/2003	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	Supersedes 11-60-16
11-60.1-17	Prevention of air pollution emergency episodes	11/14/2003	[<u>Insert Federal Register publication</u>	Supersedes 11-60-35

			date] [Insert page number where the document begins]	
11-60.1-20	Severability	11/14/2003	[Insert Federal Register publication date] [Insert page number where the document begins]	Supersedes 11-60-38
11-60.1-32	Visible emissions	11/14/2003	[Insert Federal Register publication date] [Insert page number where the document begins]	Supersedes 11-60-24
11-60.1-34	Motor vehicles	11/14/2003	[Insert Federal Register publication date] [Insert page number where the document begins]	Supersedes 11-60-25
11-60.1-40	Volatile organic compound water separation	11/14/2003	[Insert Federal Register publication date] [Insert page number where the document begins]	New regulation
11-60.1-41	Pump and compressor requirements	11/14/2003	[Insert Federal Register publication	New regulation

			date] [<u>Insert page number where the document begins</u>]	
11-60.1-42	Waste gas disposal	11/14/2003	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	New regulation
11-60.1-51	Definitions	11/14/2003	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	Supersedes 11-60-1
11-60.1-53	Agricultural burning: permit requirement	11/14/2003	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	Supersedes 11-60-19
11-60.1-54	Agricultural burning: applications	11/14/2003	[<u>Insert Federal Register publication date</u>] [<u>Insert page number where the document begins</u>]	Supersedes 11-60-20
11-60.1-56	Agricultural burning: recordkeeping and monitoring	11/14/2003	[<u>Insert Federal Register publication</u>	Supersedes 11-60-22

			<u>date]</u> <u>[Insert page</u> <u>number where</u> <u>the document</u> <u>begins]</u>	
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[FR Doc. 2012-10102 Filed 04/26/2012 at 8:45 am; Publication
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